IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Richard B. Gorelick et al.	Examiner: Nathan Hillery
Serial No.:	09/734,045	Group Art Unit: 2176
Filed:	December 12, 2000	Docket: 2043.063US1
Title:	AUTOMATICALLY INSERTING RELEVANT HYPERLINKS INTO A WEBPAGE	

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. § 41.41

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Examiner's Answer mailed <u>March 5, 2007</u>, please see the remarks below:

Reply to Examiner's Answer

Appellants have reviewed the Examiner's Answer. Appellants maintain that a *prima facie* case of obviousness has not been established in the rejection of the claims 1-4, and 7. Appellants respectfully submit that the Examiner's Answer is erroneous in its application of the law of 35 USC §103 in the rejections of the pending claims for the reasons stated below.

Claim 1 includes the following limitation:

communicating the name of the product to a producer of the text, wherein the name of the product is designated from a plurality of names of the product that are utilized by the producer of the text.

A.   *SUNDARESAN DOES NOT TEACH THAT ONE CAN OBTAIN ALL PRODUCT NAMES OF A PRODUCT ITEM*

The Examiner's Answer alleges that Sundaresan teaches that "one," as in a person or entity, can obtain all the product names of a product item (Examiner's Answer, Page 7).

The appellants respectfully disagree.

The Examiner's Answer states:

Sundaresan teaches that one can obtain all product names of a product item, which meets the limitation of communication of a product name, since the skilled artisan would have recognized that the product name is communicated in some way to the user so that the user or "one" can obtain the name.

Examiner's Answer, Page 8.

'The Examiner's Answer further highlights the following disclosure in Sundaresan:

> FIG. 5 illustrates an exemplary system 140 for the automatic mining of new
> relationships... New terms are obtained from relations discovered by the system for
> automatic mining of patterns and relations of the same kind by selecting an item (or a
> column) of a pair. For example, for the purpose of identifying relevant products, one can
> obtain all the product names from the product item (or column) of (company, product)
> pairs of a production relationship.

Col. 8, lines 22-34.

The above quote from Sundaresan describes a system that mines relations of the same
kind to identify terms that are relevant to a given target topic (Col. 4, lines 34-36; Col. 4, lines
27-28; ABSTRACT, TITLE). For example, relations of the same kind may include production
relationships and the terms may include product names. Each production relationship may
include a company and a product name (e.g., company one - product name one, company two -
product name two, etc.). For the purpose of identifying products that are relevant to a target topic
the product names (e.g., right column) may be obtained from pairs of production relationships
(e.g., (company A, product name A), (company B, product name B), etc.).

The above quote from Sundaresan does not support the statement, "one," as in a person or
entity, can obtain all the product names of a product item." Appellant believes that the above
quote from Sundaresan supports the notion that one can obtain all the product names from a right
column of pairs of production relationships including a left column (companies) and a right
column (product names). Indeed, Sundaresan describes selecting an "item"; however, Sundaresan
further clarifies "item" as part of a pair and suggests that multiple items of like kind are found in
a column of the production pairs including two columns (e.g., company column, product name
column). Broadly speaking, Sundaresan describes discovering terms that are relevant to a target
topic (Abstract, Summary of Invention, Col. 3, lines 35-37) and not obtaining all the product
names of a product item. Whether "one", as in a person or entity, can obtain all the product
names of a product item based on the teachings of Sundaresan is speculative.

B.   *SUNDARESAN DOES NOT TEACH OR SUGGEST THE COMMUNICATION OF A PRODUCT NAME TO A PRODUCER OF THE TEXT*

The Examiner's Answer alleges that Sundaresan teaches communication of a product name to a producer of text.

The Appellants respectfully disagree.

The Examiner's Answer states:

Since Sundaresan teaches a user-defined threshold determines the significance of the topic (Column 7, lines 45-50), the invention of Sundaresan meets the limitation because the user defines a threshold thus the user produces text, making the user a "producer of text".

Examiner's Answer, Page 8.

The above quote highlights a portion of the following quote from Sundaresan:

The first stage of the operation is carried out by the new terms discoverer 90 which is illustrated in FIGS. 3, 4 and 5. The new terms discoverer 90 defines the terms that need to be examined for their relevance to a target topic (or concept). As used herein a target topic can be defined as a description of the cluster of the topic's instances in a database. For a given target topic and a database of HTML documents discovering a relevant topic is to discover a topic whose cluster significantly overlaps with the target topic's cluster. In other words, a significant number of the relevant topic's instances belong to the target topic's cluster. The significance is determined by a user-defined threshold. In the illustration described herein, relevance is defined in terms of co-occurrence of terms.

Col. 7, lines 35-50.

The above quote from Sundaresan describes a new terms discoverer 90. The new terms discoverer 90 defines the terms that need to be examined for their relevance to a target topic. Terms that need to be examined are included in a topic that is determined to be relevant to the target topic. Relevance is determined based on target topic and topic respective clusters that

include overlapping instances. For example, if the number of overlapping instances is determined by a user-defined numeric threshold then the topic is determined to be a relevant topic.

The new terms discoverer 90 introduced in the above quote from Sundaresan is further described by the following quote from Sundaresan:

> In one embodiment, a crawler that resides in the host server 15, visits and downloads every web page or document d.sub.i on the WWW at periodic intervals, for example about once a month. During such visits, the crawler downloads all or selected sections of the document d.sub.i to the new terms discoverer 90 which discovers the terms existing in the document d.sub.i, and which limits their scope by providing a preliminary selection of those terms that are relevant to the target topic of interest.

Col. 7, lines 4-13.

The above quote from Sundaresan further describes the new terms discoverer 90. The new terms discoverer 90 receives web pages that have been downloaded from the World Wide Web. The new terms discoverer 90 selects terms in the web pages that have been downloaded. The new terms discoverer 90 selects terms that are relevant to the topic of interest, as described above.

The above quotes from Sundaresan do not teach or suggest communication of a product name to a producer of text. For example, nowhere does the above quote from Sundaresan describe the user that defines the threshold as producing text. Merely defining a number of overlap instances to establish a threshold of significance for a topic says nothing about "a producer of the text," as required by the limitations of the claim 1. Specifically, the above quote from Sundaresan describes a new terms discoverer 90 as receiving a download of web pages (d.sub.i) and selecting terms (e.g., product names) existing in the web pages that are relevant to a topic of interest without describing a "producer of the text," as required by the limitations of the claim 1.

The Examiner's answer alleges that Sundaresan teaches communication of a product name to a "producer of text" by construing the phrase "producer of text" as follows:

> ...any person or entity that authors, edits, or otherwise "produces" some form of text in a computer or on a physical medium such as paper.

Examiner's Answer, page 8.

Appellants respectfully disagree. Appellants submit that the proffered construction of the phrase "producer of text" fails to give the claim 1 its broadest reasonable interpretation consistent with the specification and the other limitations of the claim 1.

The Federal Circuit has stated the following:

> We have frequently stated that the words of a claim "are generally given their ordinary and customary meaning." . . . We have made clear, moreover, that the ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application. . . . The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation. . . . That starting point is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art . . . .Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification. This court explained that point well in Multiform Desiccants, Inc. u. Medzam, Ltd., 133 F.3d 1473, 1477; 45 U.S.P. Q.2d 1429 (Fed. Cir. 1998):

Phillips v. AWH Corp., 415 F.3d 1303, 1312 to 1314, 75 U.S.P. Q.2d 1321 (Fed. Cir. 2005), cert. denied, 126 S. Ct. 1332, 164 L. Ed. 2d 49 (U.S. 2006)

First, the proffered construction the phrase "producer of text" fails interpret the phrase "producer of text" from the point of view of a person of ordinary skill in the art deemed to have read the phrase in the context of the specification.

The present application states the following:

> In order to meet the needs of electronic commerce, the database should contain product names that may appear in the text. In particular, the database may include (1) common product identifiers ("CPIDs"), (2) a name defined by the host to identify a product ("shortname"); (3) full, formal name for a product; and/or (4) categories of products.

> A shortname should be the most common name used to reference the product, while
> being as unique as possible. The shortname is often a subset of the full product name, and
> the same product may have more than one shortname. The use of the shortnames is
> advantageous because it allows an easy-to-use standard terminology for the same product
> that can be applied regardless of the language or format of the text. The host may
> coordinate with producers of text documents so that the producers of text consistently use
> the shortname for a product. This process helps increase the relevancy of the hyperlinks
> by reliably indicating a relation of the text to a product.

Application, Page 19, lines 8 – Page 20, line 2.

The above quote from specification describes a host that may coordinate with producers of text
documents so that the producers of the text documents may consistently use the shortname for a
product. Further, the specification states an advantage of such coordination, namely an increase
in the relevancy of the hyperlinks by reliably indicating a relation of the text to a product.
Appellant submits that the proffered construction of the phrase "producer of text" fails to
appreciate the phrase as a person of ordinary skill in the art who is deemed to have read the
phrase in the context of the entire patent, including the specification.

Second, the proffered construction the phrase "producer of text" fails interpret the phrase
"producer of text" from the point of view of a person of ordinary skill in the art deemed to have
read the phrase in the context of the claim in which the phrase appears. Specifically, the
Examiner's answer has interpreted the phrase "producer of text." However, the phrase "producer
of text" is not recited in the claim 1. Rather, the phrase "producer of the text," is recited in the
claim 1. Accordingly, the other references to the word "text" in the claim 1 have not been
considered in constructing the meaning of the phrase "producer of the text." Appellant submits
that the proffered construction fails to appreciate the phrase as a person of ordinary skill in the
art.

C.   SUNDARESAN DOES NOT TEACH OR SUGGEST DESIGNATION OF A NAME OF A PRODUCT FROM A PLURALITY OF NAMES OF THE PRODUCT

The Examiner's Answer states:

The Office still maintains that the teachings of Sundaresan meet the limitation of the designation of a name of a product from a plurality of names of the same product since Sundaresan explicitly teaches that new terms are obtained from relations of the same kind by selecting an item of a pair – one example of a pair is (company, product).

Examiner's Answer, Page 9.

The Appellants respectfully disagree. Appellants believe that Sundaresan describes obtaining the product names in a product column of company/product pairs. Nowhere does Sundaresan describe or suggest designation of a name of a product from a plurality of names of the product. Broadly speaking, Sundaresan describes discovering terms that are relevant to a target topic (Abstract, Summary of Invention, Col. 3, lines 35-37) the relevant terms being obtained from relations of the same kind by selecting an item (e.g., column) of a pair.

In summary, Appellants maintain that a *prima facie* case of obviousness has not been established in the rejection of the claims 1-4, and 7 for the reasons stated above and for the reasons stated in the original Appeal Brief. Any lack of reference in this Reply Brief to a particular argument in the pending Appeal Brief is not to be construed as an admission that the Appellant agrees with any of the statements in the Answer. Appellants ask that the statements made in Appellant's pending Appeal Brief be considered in full, in addition to the statements included with this Reply Brief.

CONCLUSION

Appellants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Appellants' attorney at 408-278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

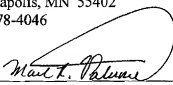Respectfully submitted,

RICHARD B. GORELICK ET AL.

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this ___ day of May, 2007.

Peter Robertson
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